

AMENDED IN SENATE MAY 19, 2008

AMENDED IN ASSEMBLY APRIL 21, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 3047

**Introduced by Committee on Local Government (Caballero (Chair),
Houston (Vice Chair), De La Torre, Lieber, Saldana, Smyth, and
Soto)**

February 27, 2008

An act to amend Sections 56106, 56157, 56332, 56375.3, 56425.5, 56654, 56706, and 57080 of, to amend the heading of Chapter 7 (commencing with Section 57176) of Part 4 of Division 3 of Title 5 of, and to repeal Sections 56650.5 and 56758 of, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 3047, as amended, Committee on Local Government. Local agency formation commissions: notice requirements.

(1) The Cortese-Knox-Hertzberg Act of 2000 requires the local agency formation commission in each county to review and approve or disapprove proposals for changes of organization or reorganization of cities and districts within the county. The legislative body of the affected local agency is authorized to adopt, by resolution, a proposal for a change of organization or a reorganization. At least 20 days before the adoption of the resolution of application for organization or reorganization, the legislative body is authorized to give mailed notice of its intention to do so to the commission and to each interested agency and each subject agency. All provisions in the act governing the time within which an official or the commission is to act are required to be

deemed directory, rather than mandatory, except for notice requirements and the specified requirements for conducting a hearing in relation to an application to initiate proceedings.

This bill would instead authorize the legislative body to give mailed notice of its intention to adopt a resolution of application at least 21 days before the adoption of the resolution to the commission and to each interested agency and each subject agency. The bill also would make a conforming addition to the exceptions to the requirement that the time within which an official or the commission is to act is to be deemed directory, rather than mandatory, and would make other conforming changes.

(2) Under the act, ~~where~~ *when* mailed notice is required to be given to landowners, the notice must be addressed to each person to whom the land is assessed, as specified, and to the most recent address of all registered voters within the affected territory, as specified.

This bill would provide that ~~where~~ *when* the landowner or landowners and the registered voter or voters are the same individual or individuals, only one notice is required to be mailed.

(3) The act requires a local area formation commission to carry out specified duties with regard to a proposal for the annexation of territory to a city, as specified.

This bill would revise these provisions to require the local area formation commission to carry out these duties with regard to proposals for a change of organization or reorganization that meets the specified requirements.

(4) The act prohibits proceedings from being initiated for a proposal for annexation of inhabited territory to a city with over ~~one hundred thousand~~ 100,000 residents that is located in a county with a population of over ~~4 million~~ 4,000,000 unless the proposal is consistent with the sphere of influence of any affected city or district.

This bill would repeal these provisions.

(5) The act requires the executive officer to, within 30 days after the date of receiving a petition, cause the petition to be examined by, in the case of a registered voter petition, the county elections official, or in the case of a landowner petition, the county assessor, and prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.

This bill would require these actions to take place within 30 days, excluding Saturdays, Sundays, and holidays.

(6) *This bill would incorporate additional changes in Section 56654 of the Government Code, proposed by AB 2484, to be operative only if AB 2484 and this bill are both chaptered and become effective January 1, 2009, and this bill is chaptered last.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56106 of the Government Code is
2 amended to read:
3 56106. Any provisions in this division governing the time
4 within which an official or the commission is to act shall in all
5 instances, except for notice requirements and the requirements of
6 subdivision (i) of Section 56658 and subdivision (b) of Section
7 56895, be deemed directory, rather than mandatory.
8 SEC. 2. Section 56157 of the Government Code is amended
9 to read:
10 56157. When mailed notice is required to be given to:
11 (a) A county, city, or district, it shall be addressed to the clerk
12 of the county, city, or district.
13 (b) A commission, it shall be addressed to the executive officer.
14 (c) Proponents, it shall be addressed to the persons so designated
15 in the petition at the address specified in the petition.
16 (d) Landowners, it shall be addressed to each person to whom
17 land is assessed, as shown upon the most recent assessment roll
18 being prepared by the county at the time the proponent adopts a
19 resolution of application pursuant to Section 56654 or files a notice
20 of intention to circulate a petition with the executive officer
21 pursuant to subdivision (a) of Section 56700.4, at the address
22 shown upon the assessment roll and to all landowners within 300
23 feet of the exterior boundary of the property that is the subject of
24 the hearing at least 21 days prior to the hearing. This requirement
25 may be waived if proof satisfactory to the commission is presented
26 that shows that individual notices to landowners have already been
27 provided by the initiating agency. Notice also shall be either posted
28 or published in accordance with Section 56153 in a newspaper of
29 general circulation that is circulated within the affected territory
30 21 days prior to the hearing.

1 (e) Persons requesting special notice, it shall be addressed to
2 each person who has filed a written request for special notice with
3 the executive officer or clerk at the mailing address specified in
4 the request.

5 (f) To all registered voters within the affected territory, to the
6 address as shown on the most recent index of affidavits prepared
7 by the county elections official at the time the proponent adopts a
8 resolution of application pursuant to Section 56654 or files a notice
9 of intention to circulate a petition with the executive officer
10 pursuant to subdivision (a) of Section 56700.4 and to all registered
11 voters within 300 feet of the exterior boundary of the property that
12 is the subject of the hearing at least 21 days prior to the hearing.
13 This requirement may be waived if proof satisfactory to the
14 commission is presented that shows that individual notices to
15 registered voters have already been provided by the initiating
16 agency. Notice shall also either be posted or published in
17 accordance with Section 56153 in a newspaper of general
18 circulation that is circulated within the affected territory 21 days
19 prior to the hearing.

20 **Pursuant**

21 (g) Pursuant to subdivisions (d) and (f), if a landowner or
22 landowners and registered voter or voters are the same individual
23 or individuals, only one notice is required to be mailed.

24 **If**

25 (h) If the total number of notices required to be mailed in
26 accordance with subdivisions (d) and (f) exceeds 1,000, then notice
27 may instead be provided by publishing a display advertisement of
28 at least one-eighth page in a newspaper, as specified in Section
29 56153, at least 21 days prior to the hearing.

30 SEC. 3. Section 56332 of the Government Code is amended
31 to read:

32 56332. (a) The independent special district selection committee
33 shall consist of the presiding officer of the legislative body of each
34 independent special district. However, if the presiding officer of
35 an independent special district is unable to attend a meeting of the
36 independent special district selection committee, the legislative
37 body of the district may appoint one of its members to attend the
38 meeting of the selection committee in the presiding officer's place.
39 Those districts shall include districts located wholly within the
40 county and those containing territory within the county representing

1 50 percent or more of the assessed value of taxable property of the
2 district, as shown on the last equalized county assessment roll.
3 Each member of the committee shall be entitled to one vote for
4 each independent special district of which he or she is the presiding
5 officer. Members representing a majority of the eligible districts
6 shall constitute a quorum.

7 (b) The executive officer shall call and give written notice of
8 all meetings of the members of the selection committee. A meeting
9 shall be called and held under either of the following
10 circumstances:

11 (1) Whenever a vacancy exists among the members or alternate
12 members representing independent special districts upon the
13 commission.

14 (2) Upon receipt of a written request by one or more members
15 of the selection committee representing districts having 10 percent
16 or more of the assessed value of taxable property within the county,
17 as shown on the last equalized county assessment roll.

18 (c) (1) If the executive officer determines that a meeting of the
19 special district selection committee, for the purpose of selecting
20 the special district representatives or for filling a vacancy, is not
21 feasible, the executive officer may conduct the business of the
22 committee in writing, as provided in this subdivision. The executive
23 officer may call for nominations to be submitted in writing within
24 30 days. At the end of the nominating period, the executive officer
25 shall prepare and deliver, or send by certified mail, to each
26 independent special district one ballot and voting instructions. If
27 only one candidate is nominated for a vacant seat, that candidate
28 shall be deemed selected, with no further proceedings.

29 (2) As an alternative to the delivery by certified mail, the
30 executive officer, with the prior concurrence of the district, may
31 transmit the ballot and voting instructions by electronic mail,
32 provided that the executive officer shall retain written evidence of
33 the receipt of that material.

34 (3) The ballot shall include the names of all nominees and the
35 office for which each was nominated. The districts shall return the
36 ballots to the executive officer by the date specified in the voting
37 instructions, which date shall be at least 30 days from the date on
38 which the executive officer mailed the ballots to the districts.

39 (4) If the executive officer has transmitted the ballot and voting
40 instructions by electronic mail, the districts may return the ballots

1 to the executive officer by electronic mail, provided that the
2 executive officer retains written evidence of the receipt of the
3 ballot.

4 (5) Any ballot received by the executive officer after the
5 specified date is invalid. The executive officer shall announce the
6 results of the election within seven days of the specified date.

7 (d) The selection committee shall appoint two regular members
8 and one alternate member to the commission. The members so
9 appointed shall be elected or appointed special district officers
10 residing within the county but shall not be members of the
11 legislative body of a city or county. If one of the regular district
12 members is absent from a commission meeting or disqualifies
13 himself or herself from participating in a meeting, the alternate
14 district member may serve and vote in place of the regular district
15 member for that meeting. The representation by a regular district
16 member who is a special district officer shall not disqualify, or be
17 cause for disqualification of, the member from acting on a proposal
18 affecting the special district. The special district selection
19 committee may, at the time it appoints a member or alternate,
20 provide that the member or alternate is disqualified from voting
21 on proposals affecting the district of which the member is a
22 representative.

23 (e) If the office of a regular district member becomes vacant,
24 the alternate member may serve and vote in place of the former
25 regular district member until the appointment and qualification of
26 a regular district member to fill the vacancy.

27 SEC. 4. Section 56375.3 of the Government Code is amended
28 to read:

29 56375.3. (a) In addition to those powers enumerated in Section
30 56375, a commission shall do either of the following:

31 (1) Approve, after notice and hearing, the change of organization
32 or reorganization of a city, and waive protest proceedings pursuant
33 to Part 4 (commencing with Section 57000) entirely, if all of the
34 following are true:

35 (A) The change of organization or reorganization is initiated on
36 or after January 1, 2000, and before January 1, 2014.

37 (B) The change of organization or reorganization is proposed
38 by resolution adopted by the affected city.

1 (C) The commission finds that the territory contained in the
2 change of organization or reorganization proposal meets all of the
3 requirements set forth in subdivision (b).

4 (2) Approve, after notice and hearing, the change of organization
5 or reorganization of a city, subject to subdivision (a) of Section
6 57080, if all of the following are true:

7 (A) The change of organization or reorganization is initiated on
8 or after January 1, 2014.

9 (B) The change of organization or reorganization is proposed
10 by resolution adopted by the affected city.

11 (C) The commission finds that the territory contained in the
12 change of organization or reorganization proposal meets all of the
13 requirements set forth in subdivision (b).

14 (b) Subdivision (a) applies to territory that meets all of the
15 following requirements:

16 (1) It does not exceed 150 acres in area, and that area constitutes
17 the entire island.

18 (2) The territory constitutes an entire unincorporated island
19 located within the limits of a city, or constitutes a reorganization
20 containing a number of individual unincorporated islands.

21 (3) It is surrounded in either of the following ways:

22 (A) Surrounded, or substantially surrounded, by the city to which
23 annexation is proposed or by the city and a county boundary or
24 the Pacific Ocean.

25 (B) Surrounded by the city to which annexation is proposed and
26 adjacent cities.

27 (C) This subdivision shall not be construed to apply to any
28 unincorporated island within a city that is a gated community where
29 services are currently provided by a community services district.

30 (D) Notwithstanding any other provision of law, at the option
31 of either the city or the county, a separate property tax transfer
32 agreement may be agreed to between a city and a county pursuant
33 to Section 99 of the Revenue and Taxation Code regarding an
34 annexation subject to this subdivision without affecting any existing
35 master tax sharing agreement between the city and county.

36 (4) It is substantially developed or developing. The finding
37 required by this ~~subparagraph~~ *paragraph* shall be based upon one
38 or more factors, including, but not limited to, any of the following
39 factors:

40 (A) The availability of public utility services.

1 (B) The presence of public improvements.

2 (C) The presence of physical improvements upon the parcel or
3 parcels within the area.

4 (5) It is not prime agricultural land, as defined by Section 56064.

5 (6) It will benefit from the change of organization or
6 reorganization or is receiving benefits from the annexing city.

7 (c) Notwithstanding any other provision of this subdivision, this
8 subdivision shall not apply to all or any part of that portion of the
9 development project area referenced in subdivision (e) of Section
10 33492.41 of the Health and Safety Code that as of January 1, 2000,
11 meets all of the following requirements:

12 (1) Is unincorporated territory.

13 (2) Contains at least 100 acres.

14 (3) Is surrounded or substantially surrounded by incorporated
15 territory.

16 (4) Contains at least 100 acres zoned for commercial or
17 industrial uses or is designated on the applicable county general
18 plan for commercial or industrial uses.

19 SEC. 5. Section 56425.5 of the Government Code is amended
20 to read:

21 56425.5. (a) A determination of a city's sphere of influence,
22 in any case where that sphere of influence includes any portion of
23 the redevelopment project area referenced in subdivision (e) of
24 Section 33492.41 of the Health and Safety Code, shall not preclude
25 any other local agency, as defined in Section 54951, including the
26 redevelopment agency referenced in Section 33492.41 of the Health
27 and Safety Code, in addition to that city, from providing facilities
28 or services related to development, ~~as defined in Section 56426,~~
29 to or in that portion of the redevelopment project area that, as of
30 January 1, 2000, meets all of the following requirements:

31 (1) Is unincorporated territory.

32 (2) Contains at least 100 acres.

33 (3) Is surrounded or substantially surrounded by incorporated
34 territory.

35 (4) Contains at least 100 acres zoned for commercial or
36 industrial uses or is designated on the applicable county general
37 plan for commercial or industrial uses.

38 (b) Facilities or services related to development may be provided
39 by other local agencies to all or any portion of the area defined in
40 paragraphs (1) to (4), inclusive, of subdivision (a). Subdivision (a)

1 shall apply regardless of whether the determination of the sphere
2 of influence is made before or after January 1, 2000.

3 SEC. 6. Section 56650.5 of the Government Code is repealed.

4 SEC. 7. Section 56654 of the Government Code is amended
5 to read:

6 56654. (a) A proposal for a change of organization or a
7 reorganization may be made by the adoption of a resolution of
8 application by the legislative body of an affected local agency.

9 (b) At least 21 days before the adoption of the resolution, the
10 legislative body may give mailed notice of its intention to adopt
11 a resolution of application to the commission and to each interested
12 agency and each subject agency. The notice shall generally describe
13 the proposal and the affected territory.

14 (c) Except for the provisions regarding signers and signatures,
15 a resolution of application shall contain all of the matters specified
16 for a petition in Section 56700 and shall be submitted with a plan
17 for services prepared pursuant to Section 56653.

18 SEC. 7.5. *Section 56654 of the Government Code is amended*
19 *to read:*

20 56654. (a) A proposal for a change of organization or a
21 reorganization may be made by the adoption of a resolution of
22 application by the legislative body of an affected local agency,
23 *except as provided in subdivision (b).*

24 *(b) Notwithstanding Section 56700, a proposal for a change of*
25 *organization that involves the exercise of new or different functions*
26 *or classes of services, or the divestiture of the power to provide*
27 *particular functions or classes of services, within all or part of the*
28 *jurisdictional boundaries of a special district, shall only be initiated*
29 *by the legislative body of that special district in accordance with*
30 *Sections 56824.10, 56824.12, and 56824.14.*

31 ~~(b)~~

32 ~~(c)~~ At least ~~20~~ 21 days before the adoption of the resolution,
33 the legislative body may give mailed notice of its intention to adopt
34 a resolution of application to the commission and to each interested
35 agency and each subject agency. The notice shall generally describe
36 the proposal and the affected territory.

37 ~~(e)~~

38 ~~(d)~~ Except for the provisions regarding signers and signatures,
39 a resolution of application shall contain all of the matters specified

1 for a petition in Section 56700 and shall be submitted with a plan
2 for services prepared pursuant to Section 56653.

3 SEC. 8. Section 56706 of the Government Code is amended
4 to read:

5 56706. (a) Within 30 days, excluding Saturdays, Sundays, and
6 holidays, after the date of receiving a petition, the executive officer
7 shall cause the petition to be examined by, in the case of a
8 registered voter petition, the county elections official, in accordance
9 with Sections 9113 to 9115, inclusive, of the Elections Code, or
10 in the case of a landowner petition, the county assessor, and shall
11 prepare a certificate of sufficiency indicating whether the petition
12 is signed by the requisite number of signers.

13 (b) (1) Except as provided in paragraph (2), if the certificate
14 of the executive officer shows the petition to be insufficient, the
15 executive officer shall immediately give notice by certified mail
16 of the insufficiency to the proponents, if any. That mailed notice
17 shall state in what amount the petition is insufficient. Within 15
18 days after the date of the notice of insufficiency, a supplemental
19 petition bearing additional signatures may be filed with the
20 executive officer.

21 (2) Notwithstanding paragraph (1), the proponents of the petition
22 may, at their option, collect signatures for an additional 15 days
23 immediately following the statutory period allowed for collecting
24 signatures without waiting for notice of insufficiency. Any
25 proponent choosing to exercise this option may not file a
26 supplemental petition as provided in paragraph (1).

27 (c) Within 10 days after the date of filing a supplemental
28 petition, the executive officer shall examine the supplemental
29 petition and certify in writing the results of his or her examination.

30 (d) A certificate of sufficiency shall be signed by the executive
31 officer and dated. That certificate shall also state the minimum
32 signature requirements for a sufficient petition and show the results
33 of the executive officer's examination. The executive officer shall
34 mail a copy of the certificate of sufficiency to the proponents, if
35 any.

36 SEC. 9. Section 56758 of the Government Code is repealed.

37 SEC. 10. Section 57080 of the Government Code is amended
38 to read:

39 57080. (a) With respect to a proceeding initiated on or after
40 January 1, 2014, when approved and authorized by the commission

1 pursuant to Section 56375.3, Sections 57050, 57051, 57052, and
2 57078, shall apply and Section 57075 shall not apply.

3 (b) The commission, not more than 30 days after conclusion of
4 the hearing, shall make a finding regarding the value of written
5 protests filed and not withdrawn and shall do either of the
6 following:

7 (1) Terminate proceedings if written protests have been filed
8 and not withdrawn by 50 percent or more of the registered voters
9 within the affected territory.

10 (2) Order the territory annexed without an election.

11 SEC. 11. The heading of Chapter 7 (commencing with Section
12 57176) of Part 4 of Division 3 of Title 5 of the Government Code
13 is amended to read:

14
15 CHAPTER 7. CONFIRMATION OF ELECTION RESULTS
16

17 *SEC. 12. Section 7.5 of this bill incorporates amendments to*
18 *Section 56654 of the Government Code proposed by both this bill*
19 *and AB 2484. It shall only become operative if (1) both bills are*
20 *enacted and become effective on or before January 1, 2009, (2)*
21 *each bill amends Section 56654 of the Government Code, and (3)*
22 *this bill is enacted after AB 2484, in which case Section 7 of this*
23 *bill shall not become operative.*